

9200/3626

Application No. 09/616,276



#12  
n 24

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Applicant: Evan E. Dussia

Examiner: V.Frenel

Serial No.: 09/616,276

Art Unit: 3626

Filed: July 14, 2000

For: Computerized Method And System  
For Obtaining Storing And Accessing  
Medical Records

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MAR 10 2004  
GROUP 3600

Mail Stop Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION TO OBTAIN WITHDRAWAL OF HOLDING OF ABANDONMENT  
BASED ON FAILURE TO RECEIVE OFFICE ACTION UNDER 37 CFR  
1.181(A)(3) AND SECTION 711.03(c) (II) OF THE MPEP**

Sir:

On June 26, 2003, applicant's attorney received a final office action (the "Final Office Action") dated as mailed June 6, 2003. On August 6, 2003, within two months of mailing the Final Office Action, applicant's attorney faxed a Response (the "Response") to the Examiner, Mr. Franel Vanel. A transmission verification for this fax is attached hereto as Exhibit A. Under the PTO procedures, an advisory action should have been set to Applicant's attorney if the response did not place the application in form for allowance. Since such an Advisory Action was not received, applicant's attorney assumed that the application was allowed. On or about December 8, 2003, the Examiner called applicant's attorney to ask if a Response had been filed. Applicant's attorney informed the Examiner that the Response had been faxed to the Examiner on August 6, 2003. Upon further discussion, the Examiner concluded that the faxed Response had been lost by the PTO and agreed to accept a re-fax the

cut  
transmission

Response. Applicant's attorney re-faxed the Response on December 8, 2003 (see Exhibit B for this transmission receipt).

According to applicant's attorney's telephone conversation with the Examiner, applicant's attorney understood that the Response would be treated by the Examiner as timely filed for provoking an advisory action because the Response had previously been faxed within two months from mailing of the Final Office Action. Because it appeared that the PTO had lost the Response timely faxed on August 6, 2003, and the Examiner did not indicate that a re-faxed response would not be treated as being timely filed, the applicant's attorney believed that the re-faxed Response would "reset" the clock to the date of re-faxing the response - December 8, 2003. Therefore, the applicant's attorney believed that he would have at least four months (six months, minus two months from the reset filing date of December 8, 2003), or April 8, 2004, to respond to an advisory action provoked by the Response. Additionally, the applicant's attorney believed that if an advisory action was not mailed by January 8, 2004, then applicant's attorney would have three months from the date of mailing of the advisory action to file a response to the advisory action without having to pay an extension fee.

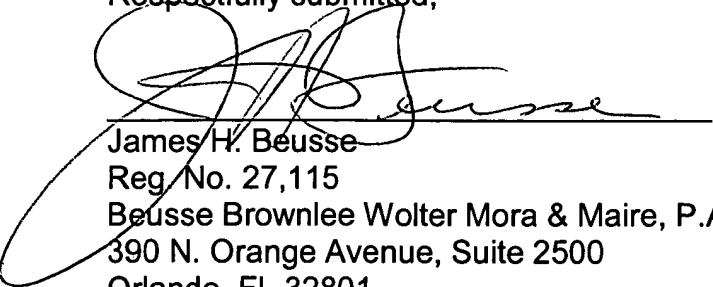
The applicant's attorney had not received an advisory action by February 25, 2004, when the Examiner contacted the applicant's attorney by telephone. The Examiner informed the applicant's attorney, that a Notice of Abandonment had been mailed on February 23, 2004 for failure to prosecute the above referenced application. The Examiner's reason for sending the Notice of Abandonment was that the applicant's attorney had failed to respond to an Advisory Action (the "Advisory Action"), mailed December 24, 2003, within six months of mailing the Final Office Action on June 6, 2003, as required by 35 USC 133. However, the applicant's attorney did not receive and has no record of receiving this Advisory Action.

Therefore, the applicant's attorney hereby submits, according to the showing requirements of MPEP Section 711.03(c) II., that the Office Action, specifically, the Advisory Action, was not received by the applicant's attorney. In addition, a search of the file jacket and docket records indicates that the Advisory Action was not received. A copy of the docket record where the non-received Advisory Action would have been entered, had it been received and docketed, is attached hereto as Exhibit C.

It appears to applicant's attorney that the Advisory Action may have been mailed to a prior correspondence address that should have been updated according to a Request for Change of Correspondence Address (the "Request") submitted on October 25, 2002, and attached hereto as Exhibit D. The Patent and Trademark Office acknowledged receipt of the Request by date stamping and returning a postcard provided with the Request. A copy of the postcard is attached hereto as Exhibit E.

For the foregoing reasons, the applicant's attorney respectfully requests that the Notice of Abandonment be withdrawn and that a copy of the Advisory Action be mailed to the applicant's attorney at the proper correspondence address. In addition, the applicant's attorney respectfully requests that the re-faxed Response be treated as timely filed two months from mailing of the Final Office Action, and that the period for reply be reset to permit a timely response to the Advisory Action.

Respectfully submitted,



James H. Beusse  
Reg. No. 27,115  
Beusse Brownlee Wolter Mora & Maire, P.A.  
390 N. Orange Avenue, Suite 2500  
Orlando, FL 32801  
(407) 926-7701



PTO/SB/21 (08-03)  
Approved for use through 08/30/2003. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE  
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	09/616,276
	Filing Date	07/14/2000
	First Named Inventor	Evan E. Dussia
	Art Unit	3626
	Examiner Name	V. Frenel
Total Number of Pages in This Submission	Attorney Docket Number	065489-001

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Technology Center (TC)
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input checked="" type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	1. Postcard
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	2. Exhibits A-E
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/Incomplete Application	Remarks	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

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GROUP 3600

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Beusse Brownlee Wolter Mora & Maire, P.A.
Signature	James H. Beusse
Date	March 3, 2004

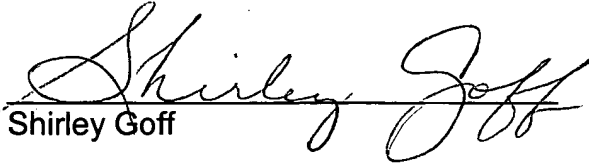
CERTIFICATE OF TRANSMISSION/MAILING	
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.	
Typed or printed name	Shirley Goff
Signature	Shirley Goff
Date	03/03/2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

CERTIFICATE OF MAILING

I HEREBY CERTIFY that this Petition is being mailed to: Commissioner for Patents, Mail Stop Petition, P.O Box 1450, Alexandria, VA 22313-1450 on this 3rd day of March, 2004.

  
Shirley Goff

# MEMORY TRANSMISSION REPORT

EXHIBIT A

TIME : 08-06-03 16:20  
 TEL NUMBER1: +4079267720  
 NAME : BEUSSE BROWNLEE ET AL

FILE NUMBER : 802  
 DATE : 08-06 16:14  
 TO : 917033057687  
 DOCUMENT PAGES : 15  
 START TIME : 08-06 16:14  
 END TIME : 08-06 16:20  
 SENT PAGES : 15

FILE NUMBER : 802

\*\*\* SUCCESSFUL TX NOTICE \*\*\*

BEUSSE BROWNLEE BOWDOIN & WOLTER, P.A.

FACSIMILE TRANSMITTAL SHEET	
TO:	FROM:
Vanel Frenel Art Unit 3626	James H Beusse
COMPANY:	DATE:
U.S. Patent Office	August 6, 2003
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
703-305-7687	15
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
	065489-001
RE:	YOUR REFERENCE NUMBER:
Response Under 37 CFR 1.116 for 09/616,276	
<input checked="" type="checkbox"/> URGENT <input type="checkbox"/> FOR REVIEW <input type="checkbox"/> PLEASE COMMENT <input type="checkbox"/> PLEASE REPLY <input type="checkbox"/> PLEASE RECYCLE	
NOTES/COMMENTS	

Response to Final Office Action, dated as mailed June 6, 2003.

390 NORTH ORANGE AVENUE, SUITE 2500, ORLANDO, FLORIDA 32801  
 TELEPHONE: (407) 926-7700

## MEMORY TRANSMISSION REPORT

EXHIBIT B

TIME : 12-08-03 14:22  
TEL NUMBER1: +4079267720  
NAME : BEUSSE BROWNLEE ET AL

FILE NUMBER : 645  
DATE : 12-08 14:17  
TO : 917033057687  
DOCUMENT PAGES : 16  
START TIME : 12-08 14:17  
END TIME : 12-08 14:22  
SENT PAGES : 16

FILE NUMBER : 645

\*\*\* SUCCESSFUL TX NOTICE \*\*\*

BEUSSE, BROWNLEE, WOLTER, MORA &amp; MAIRE, P.A.

## FACSIMILE TRANSMITTAL SHEET

TO Vanel Frenel Att Unit 3626	FROM Dave Santor for James H. Buesse
COMPANY U.S.P.T.O.	DATE December 8, 2003
FAX NUMBER (703) 305-7687	TOTAL NO. OF PAGES INCLUDING COVER 16
PHONE NUMBER	SENDER'S REFERENCE NUMBER 065489-001
RE-RECEIVED RE-FAX of Response Under 37 CFR 1.116 for 09/616,276	YOUR REFERENCE NUMBER

☒ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

## NOTES/COMMENTS:

Per telecon with Mr. Frenel on December 8, 2003, attached please find:

- 1) Memory Transmission Report for a Response to Final Office Action previously faxed on August 6, 2003.
- 2) Copy of the Response to Final Office Action previously faxed on August 6, 2003.

320 NORTH ORANGE AVENUE, SUITE 2500, ORLANDO, FLORIDA 32801  
TELEPHONE: (407) 926-7700

8/15/2003

## Patent Information Print

EXHIBIT C

Docket No 065489-001  
 Country United States  
 Case Type Regular  
 Relation Type Original Filing  
 Filing Type National  
 Filing No  
 Attorney James H. Beusse  
 Agent  
 Client\Division Medisyn Systems  
 Current Owner  
 Prev Own  
 Next Tax Dt  
 Tax Base Dt  
 Publication Dt  
 Grant Dt  
 Application Dt 7/14/2000  
 Parent Grant Dt  
 Parent Filing Dt  
 Sub Stat Dt  
 First Filing Dt 2/28/2000  
 Conv Type  
 Publication #

Patent No  
 Application #  
 Parent No  
 Parent Country  
 Sub Stat  
 Status  
 Total Claims  
 Ind. Claims  
 Expiration Dt  
 Assigned  
 Associate  
 Oper Grp  
 Ag Ref No  
 Client Docket No.  
 Product Line  
 Verified  
 Customer  
 Create Dt  
 Update Dt  
 Update Tm  
 Update User  
 Update Type

09/616,276

Filed

Assignment Recorded

N  
 U9PP  
 10/12/2001  
 8/15/2003  
 1134  
 SG

## \*\*Actions\*\*

Action No Foreign Filing  
 Act Due Date 8/28/2000  
 Taken Dt  
 DeadLn Dt

Comp Dt 7/17/2001  
 Resp Atty #1 James H. Beusse  
 Resp Atty #2

Action IDS Not Applicable  
 Act Due Date 10/14/2000  
 Taken Dt  
 DeadLn Dt

Comp Dt 10/12/2001  
 Resp Atty #1 James H. Beusse  
 Resp Atty #2

Action Notice of missing parts - 1  
 Act Due Date 11/5/2000  
 Taken Dt  
 DeadLn Dt

Comp Dt 10/17/2000  
 Resp Atty #1 James H. Beusse  
 Resp Atty #2

Action 1st Office Action  
 Act Due Date 11/7/2002  
 Taken Dt  
 DeadLn Dt

Comp Dt 12/3/2002  
 Resp Atty #1 James H. Beusse  
 Resp Atty #2

Action Response to 1st office actio  
 Act Due Date 2/7/2003  
 Taken Dt  
 DeadLn Dt

Comp Dt 2/7/2003  
 Resp Atty #1 James H. Beusse  
 Resp Atty #2

Act Notes  
 Did not file response. Will file in March with 1-month extension of time.

Action Response first OA - 1st exte  
 Act Due Date 3/7/2003  
 Taken Dt 3/5/2003  
 DeadLn Dt

Comp Dt 3/10/2003  
 Resp Atty #1 W. David Sartor  
 Resp Atty #2

Act Notes  
 File Response with 1 month extension of time.

Action Final Rejection  
 Act Due Date 6/6/2003  
 Taken Dt  
 DeadLn Dt

Comp Dt 7/6/2003  
 Resp Atty #1 James H. Beusse  
 Resp Atty #2

Action Response to provoke advisory  
 Act Due Date 8/6/2003

Comp Dt 8/6/2003  
 Resp Atty #1 W. David Sartor



Taken Dt Resp Atty #2  
DeadLn Dt

Action Final rejection due Comp Dt  
Act Due Date 9/6/2003 Resp Atty #1  
Taken Dt Resp Atty #2  
DeadLn Dt

Action Appeal due Comp Dt  
Act Due Date 9/6/2003 Resp Atty #1  
Taken Dt Resp Atty #2  
DeadLn Dt

Action Appeal due - 1st extension Comp Dt  
Act Due Date 10/6/2003 Resp Atty #1  
Taken Dt Resp Atty #2  
DeadLn Dt

Action Final rejection - 1st extens Comp Dt  
Act Due Date 10/6/2003 Resp Atty #1  
Taken Dt Resp Atty #2  
DeadLn Dt

Action Final rejection - 2nd extens Comp Dt  
Act Due Date 11/6/2003 Resp Atty #1  
Taken Dt Resp Atty #2  
DeadLn Dt

Action Appeal due - 2nd extension Comp Dt  
Act Due Date 11/6/2003 Resp Atty #1  
Taken Dt Resp Atty #2  
DeadLn Dt

Action Notice of Appeal Due Comp Dt  
Act Due Date 12/6/2003 Resp Atty #1  
Taken Dt Resp Atty #2  
DeadLn Dt

Action Final rejection deadline Comp Dt  
Act Due Date 12/6/2003 Resp Atty #1  
Taken Dt Resp Atty #2  
DeadLn Dt

**\*\*Inventors\*\***

Inv Name Dussia, Evan E. Assigned 10/6/2000

**\*\*Title\*\***

Title  
COMPUTERIZED METHOD AND SYSTEM FOR OBTAINING, STORING, AND A  
CCESSING MEDICAL RECORDS

**\*\*Text\*\***

Txt Type General Remarks

Text  
PROVISIONAL APPLICATION FILED 2/28/2000-60/185,577

Assignment recorded 10/20/2000-011174/0692

Txt Type General Remarks

Text  
Filed Status Inquiry October 25, 2002.

Please type a plus sign (+) inside this box 

PTO/SB/122 (10-00)

Approved for use through 10/31/2002 OMB 0651-0035

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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## CHANGE OF CORRESPONDENCE ADDRESS Application

Address to:  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Application Number	09/616,276
Filing Date	07/14/2000
First Named Inventor	Evan E. Dussia
Group Art Unit	2761
Examiner Name	
Attorney Docket Number	065489-001

Please change the Correspondence Address for the above-identified application to:

☐ Customer Number **29391**  
Type Customer Number here

Place Customer  
Number Bar Code  
Label here

OR

☐ Firm or  
Individual Name

Address

Address

City

State

ZIP

Country

Telephone

407-926-7701

Fax

407-926-7720

This form cannot be used to change the data associated with a Customer Number. To change the data associated with an existing Customer Number use "Request for Customer Number Data Change" (PTO/SB/124).

I am the :

- ☐ Applicant/Inventor.
- ☐ Assignee of record of the entire interest.  
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).
- ☒ Attorney or Agent of record.
- ☐ Registered practitioner named in the application transmittal letter in an application without an executed oath or declaration. See 37 CFR 1.33(a)(1). Registration Number \_\_\_\_\_

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Typed or Printed  
Name

James H. Beusse

Signature

Date

October 18, 2002

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

☐ \*Total of \_\_\_\_\_ forms are submitted.

Burden Hour Statement: This form is estimated to take 3 minutes to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

Commissioner for Patents  
Washington, D.C. 20231

Re Medisyn Systems 065489-001 —  
Date: October 25, 2002

Kindly acknowledge receipt of accompanying papers by placing  
your mailroom stamp hereon:

1. Transmittal Form
2. Change of Correspondence Address
3. Status Inquiry

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NOV 14 2002

BEUSSE, BROUWLEE, BOWDOIN,  
& WOLTER, P.A.



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